

**Commonwealth of Massachusetts  
Executive Office of Health and Human Services**

**NOTICE OF PUBLIC HEARING**

Pursuant to the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, a remote public hearing will be held on Friday, December 2, 2022, at 9:00 a.m. relative to the emergency adoption of amendments to

**101 CMR 204.00: Rates of Payment to Resident Care Facilities.**

The amendments, proposed to be effective December 1, 2022, were calculated according to the following methodology.

- Update the base year from 2019 to 2020.
  - Calculate allowed variable, fixed cost, equity, and working capital per diems using 2020 costs.
  - Cap variable costs at the 85<sup>th</sup> percentile, or \$148.06. With a 13.57% cost adjustment factor (CAF) applied, the cap is at \$168.15.
  - Fixed cost and equity components are limited to the amounts described in 101 CMR 204.08(2)(a)1.d.
  - The methodology used to set the proposed rates applies a 90% occupancy standard when calculating per diem costs.
- For each rest home, the preliminary rate is the sum of the components listed above.
- For each rest home, calculate its DTA days percentage by dividing its DTA days by the facility's total resident days, based on the 2020 cost report. The facility's DTA days percentage adjustment is equal to its DTA days percentage multiplied by \$13.28.
- For each rest home that had residents who were receiving MassHealth-covered GAFC services as of October 15, 2020, the proposed GAFC adjustment is equal to the GAFC adjustment the facility is receiving on November 30, 2022.
- For each rest home, calculate a new rate, effective December 1, 2022, equal to the greater of
  - the sum of the preliminary rate, the DTA days percentage adjustment, the GAFC adjustment, and a resident care add-on of \$8.00;
  - the sum of the facility's certified rate in effect on November 30, 2022, and a resident care add-on of \$8.00; or
  - \$95.
- If the rate calculated above exceeds the current rate effective November 30, 2022, plus \$34, the facility will receive a negative adjustment such that the new rate effective December 1, 2022, will be equal to the current rate effective November 30, 2022, plus \$34.
- For rates effective December 1 through December 31, 2022, apply an annualization adjustment of 493.55% of the difference between the new rate and the current rate, to cover the 153 days from July 1 through November 30, 2022.

The amendments to the regulation also describe a Resident Care Cost Quotient (RCC-Q). Beginning in SFY2023, facilities must have an RCC-Q of at least 80%. A downward rate adjustment may be applied in future rate years to facilities that failed to meet the RCC-Q threshold of 80%.

The proposed amendments to 101 CMR 204.00, in conjunction with amendments to residential care unit rates established at 101 CMR 206.00: *Standard Payments to Nursing Facilities*, meet FY23 state budget appropriation requirements. The proposed amendments to 101 CMR 204.00 will result in an approximate annual increase of \$9.93 million to eligible resident care providers. Due to the annualization adjustment, the full \$9.93 million in fiscal impact is expected to be realized in FY2023.

The proposed amendments contain rates effective for dates of service on or after December 1, 2022. There is no fiscal impact on cities and towns.

To register to testify at the hearing and to get instructions on how to join the hearing online, go to [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings). To join the hearing by phone, call (646) 558-8656 and enter meeting ID 935 397 8200# when prompted.

You may also submit written testimony instead of, or in addition to, live testimony. To submit written testimony, please email your testimony to [ehs-regulations@mass.gov](mailto:ehs-regulations@mass.gov) as an attached Word or PDF document or as text within the body of the email with the name of the regulation in the subject line. All written testimony must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. Written testimony will be accepted through 5:00 p.m. on Friday, December 2, 2022.

To review the current draft of the regulation, go to [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings) or request a copy in writing from MassHealth Publications, 100 Hancock Street, 6<sup>th</sup> Floor, Quincy, MA 02171. To view or download supporting materials, go to [www.mass.gov/service-details/proposed-regulations-supporting-materials](http://www.mass.gov/service-details/proposed-regulations-supporting-materials).

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at [ADAAccommodations@mass.gov](mailto:ADAAccommodations@mass.gov) or by phone at (617) 847-3468 (TTY: (617) 847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a final, revised version of the proposed action taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at [www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings](http://www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings).

November 11, 2022